

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CAMDEN IRON & METAL, INC., and EASTERN METAL
RECYCLING, INC.,

Plaintiffs,

-against-

ANTHONY DAWSON and MORRIS FREEDMAN

Defendants.

**STIPULATION
AND ORDER**

Civil Action No.:
1:13-cv-00490
(DNH/RFT)

STIPULATION

WHEREAS, Plaintiffs Camden Iron and Metal, Inc. and Eastern Metal Recycling, Inc. commenced this action by filing the underlying Summons and Complaint on April 30, 2013; and

WHEREAS, on July 15, 2013, Defendants Anthony Dawson and Morris Freedman filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure ("Rule") 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim upon which relief can be granted; and

WHEREAS, on August 2, 2013, Plaintiffs filed a First Amended Complaint, wherein Plaintiffs addressed the alleged pleading defects contained in the cause of action set forth in Count II of the Complaint based upon breach of contract; and

WHEREAS, on August 6, 2013, Plaintiffs filed their opposition to Defendants' Motion to Dismiss, as well as a Motion to Strike the affidavits submitted in support of Defendants' Motion to Dismiss; and

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the undersigned, the attorneys of record for the Plaintiffs and Defendants in the above captioned action, that: (1) the branch of Defendants' Motion to Dismiss Count II of Plaintiffs'

Complaint pursuant to Rule 12(b)(6) is hereby withdrawn without prejudice; and (2) Defendants' Motion to Dismiss and Plaintiffs' opposition to Defendants' Motion to Dismiss and Plaintiffs' Motion to Strike shall be addressed with respect to the First Amended Complaint.

Dated: August 12, 2013

HERZOG LAW FIRM P.C.

By: *s/ James M. Reilly*
James M. Reilly, Esq.
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Dated: August 12, 2013

THE WEST FIRM, PLLC

By: *s/ Thomas S. West*
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DATED: August 12, 2013

MANKO, GOLD, KATCHER & FOX, LLP

By: /s/ Kathleen B. Campbell

Kathleen B. Campbell, Esq.

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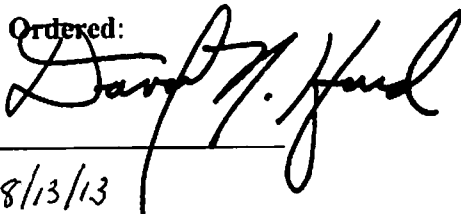
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So Ordered:



8/13/13